



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 07-0014

IN THE MATTER OF ROBERT BAYLIS

DISPOSITION AGREEMENT

This Disposition Agreement is entered into between the State Ethics Commission and Robert Baylis, pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented-to final order enforceable in Superior Court, pursuant to G.L. c. 268B, §4(j).

On October 11, 2006, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Baylis. The Commission concluded its inquiry and, on December 13, 2006, found reasonable cause to believe that Baylis violated G.L. c. 268A, §§19, 20, and 23(b)(3).

The Commission and Baylis now agree to the following findings of fact and conclusions of law:

-Findings of Fact-

1. At all relevant times, Baylis was a member of the Lancaster Board of Health ("BOH").
2. As a BOH member, Baylis was a municipal employee as defined in G.L. c 268A, §1(g).
3. In spring 2004, Baylis, along with BOH chair Shawn Winsor and a BOH administrative assistant, attempted to find a vendor to mow the town's capped landfill. The landfill needed to be mowed soon or the BOH faced potential fines from the Department of Environmental Protection ("DEP"). They were not successful in finding a vendor.
4. In or about June 2004, when they could not find another vendor, Winsor and Baylis decided to mow the landfill themselves.
5. Although they did not discuss specific amounts, Baylis knew that he would be paid from town funds to mow the landfill.
6. At its June 3, 2004 meeting, Winsor and another BOH member signed a blank voucher authorizing payment for mowing the landfill to a yet-to-be-determined vendor. Baylis did not sign the voucher.
7. The voucher did not reflect the amount of payment, but was instead blank.
8. The BOH would usually not approve a voucher prior to awarding a contract and prior to the vendor performing the work. According to Baylis, the BOH did so here out of concerns about paying the vendor out of the current fiscal year's funds and concerns about the DEP levying fines.
9. At all relevant times, Winsor owned a landscaping company called Bowen Landscaping.
10. On June 25, 2004, Winsor submitted an invoice from Bowen Landscaping to the BOH in the amount of \$4,890. The invoice was for Bowen Landscaping mowing the landfill.^{1/}

11. A vendor would usually submit an invoice for work that has already been performed. As of June 25, 2004, no one had yet mowed the landfill.

12. On or about June 25, 2004, upon receiving the invoice, the BOH administrative assistant filled in the name "Bowen Landscaping" and the amount of \$4,890 on the blank voucher approved at the June 3, 2004 BOH meeting. There is no evidence that the administrative assistant was aware that Winsor was the owner of Bowen Landscaping.

13. On July 15, 2004, the town issued a check for \$4,890 to Bowen Landscaping.^{2/} The mowing had still not taken place.

14. On or about July 15, 2004, Winsor had the BOH hold the check until the mowing could be performed.

15. On August 14, 2004, Baylis rented a tractor. He and Winsor mowed the landfill that same day. Winsor used the rented tractor while Baylis used his own tractor.

16. On August 16, 2004, the check made out to Bowen Landscaping was cashed and Winsor received the money.

17. Thereafter, Winsor subtracted the cost of the rental tractor used to mow the landfill (\$388), gave Baylis approximately \$1,800 for Baylis's part in mowing the landfill, and kept the remainder of the money, approximately \$2,700.

18. Baylis knew that he was being paid from town funds.

-Conclusions of Law-

-Section 19-

19. Section 19 of G.L. c. 268A prohibits a municipal employee from participating^{3/} as such an employee in a particular matter^{4/} in which, to his knowledge, he has a financial interest.^{5/}

20. As BOH member, Baylis was a municipal employee.

21. As a BOH member, Baylis was involved in trying to locate a vendor to mow the town's capped landfill. Baylis and Winsor tried to find a vendor to do the job, but were unsuccessful.

22. When Baylis and Winsor decided to mow the landfill themselves and seek payment from the town, they effectively decided to award the contract to mow the town's landfill to themselves. By so doing, they acted as BOH members.

23. Therefore, by awarding a contract from which he was to be paid, Baylis participated as a BOH member in a particular matter in which to his knowledge he had a financial interest, thereby violating §19.

-Section 20-

24. Section 20 prohibits a municipal employee from having a financial interest in a contract with his municipality unless an exemption applies.

25. The above described arrangement between the town and Winsor and Baylis, by which they mowed the landfill, was a contract.

26. Baylis knew he had a financial interest in that contract.

27. No exemption to §20 applied to permit Baylis to have such a financial interest.

28. Therefore, as a Lancaster municipal employee, by knowingly having a financial interest in a contract with the town, Baylis violated §20.

-Resolution-

In view of the foregoing violation of G.L. c. 268A by Baylis, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Baylis:

(1) that Baylis pay to the Commission the sum of \$2,000.00 as a civil penalty for violating G.L. c. 268A, §§19 and 20;

(2) that Baylis pay to the Commission the sum of \$1,800.00 as a civil forfeiture for the money he improperly received for mowing the town landfill; and

(3) that Baylis waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: May 10, 2007

¹ According to Baylis, he was unaware that Winsor owned a company called Bowen Landscaping, nor that Winsor submitted an invoice from Bowen Landscaping in the amount of \$4,890.

² According to Baylis, he was not aware of this.

³ "Participate" means to participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, § 1(j).

⁴ "Particular matter" means any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, § 1(k).

⁵ "Financial interest" means any economic interest of a particular individual that is not shared with a substantial segment of the population of the municipality. See *Graham v. McGrail*, 370 Mass. 133 (1976). This definition has embraced private interests, no matter how small, which are direct, immediate or reasonably foreseeable. See *EC-COI-84-98*. The interest can be affected in either a positive or negative way. *EC-COI-84-96*